

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT WOOD, a Washington resident,

Plaintiff,

VS.

JINNIU INVESTMENT LLC, a Washington limited liability company

Defendant.

NO.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF**

COMES NOW, Plaintiff, Robert Wood, by and through his attorneys, Conrad A.

Reynoldson and Michael Terasaki of Washington Civil & Disability Advocate, for his Complaint for Declaratory and Injunctive Relief to state and allege as follows:

I. OVERVIEW

1. The Americans with Disabilities Act (the “ADA”) and the Washington Law Against Discrimination require places of public accommodation to be accessible to people with disabilities.

2. A restaurant is a place of public accommodation within the meaning of Title III of the ADA, 42 U.S.C. § 12181(7), and its implementing regulation, 28 C.F.R. § 36.104.

3. ADA accessibility laws and regulations were enacted into law in 1991, nearly 30 ago, to protect persons with mobility and other disabilities.

4. Defendant discriminates against individuals with disabilities because Defendant uses a property as a place of public accommodation that does not comply with ADA laws and regulations.

5. Therefore, Plaintiff brings this action to end the civil rights violations at a place of
accommodation by Defendant Jinniu Investment LLC against persons with mobility
abilities.

II. PARTIES

6. Plaintiff Robert Wood is a Washington resident and resides in this district.

7. Mr. Wood is limited in the major life activity of walking and uses a wheelchair modified van for transportation and requires van accessible parking to patronize the Great Chinese Restaurant at Defendant's property at or around 8217 S Hosmer St in Tacoma, WA Property").

8. Jinniu Investment LLC is a Washington limited liability company.

9. Jizhong Chen, at 2519 15th Ave. S., Seattle, WA is the registered agent for Jinniu
tment LLC.

III. JURISDICTION AND VENUE

10. This court has jurisdiction pursuant to 28 U.S.C. § 1331, which gives district courts original jurisdiction over civil actions arising in the Constitution, laws, or treaties of the United States.

1 11. This court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(4), which gives district
2 courts jurisdiction over actions to secure civil rights under Acts of Congress.

3 12. This court has jurisdiction pursuant to 28 U.S.C. § 1337, which gives district
4 courts supplemental jurisdiction over state law claims.

5 13. Venue is appropriate in this judicial district under 28 U.S.C. § 1331 because the
6 practices and procedures that gave rise to the Plaintiff's Complaint for Injunctive Relief and
7 Damages occur in this district and Defendant's Property lies within this district.

8

9 **IV. FACTUAL ALLEGATIONS**

10 14. The ADA was enacted in 1990, "[t]o establish a clear and comprehensive
11 prohibition of discrimination on the basis of disability," and prohibits places of public
12 accommodation from providing separate or unequal benefits and services to individuals with
13 disabilities.

14 15. Defendant's property is one example of countless places of public
15 accommodation that are difficult or dangerous to access due to substantial and numerous
16 compliance issues with the ADA, despite decades of notice to property owners.

17 16. The findings and purpose section of the original ADA, 42 U.S.C. § 12101, states
18 that, "...individuals with disabilities continually encounter various forms of discrimination,
19 including outright intentional exclusion, [and] the discriminatory effects of architectural,
20 transportation, and communication barriers...."

21 17. Thus, Title III of the ADA states in relevant part: "No individual shall be
22 discriminated against on the basis of disability in the full and equal enjoyment of the goods,
23 services, facilities, privileges, advantages, or accommodations of any place of public

1 accommodation by any person who owns, leases (or leases to), or operates a place of public
2 accommodation.” 42 U.S.C. § 12182(a).

3 Plaintiff

4 18. Mr. Wood is a Tacoma, Washington resident who travels throughout the Tacoma
5 area on a regular basis and most recently patronized Defendant’s Property in 2019.

6 19. Mr. Wood is limited in the major life activity of walking and is thus a qualified
7 person with a disability within the meaning of Title III of the ADA and the Washington Law
8 Against Discrimination.

9 20. Mr. Wood will return to the Property once accessibility barriers are addressed.

10 Defendant’s Property

11 21. Mr. Wood used his wheelchair and modified van, albeit at personal risk due to
12 existing accessibility barriers, to visit the Property.

13 22. Mr. Wood does not feel safe accessing the property as is due to the current
14 accessibility barriers.

15 23. Defendant’s Property does not comply with the ADA’s accessibility laws and
16 regulations under the 1991 ADA Standards for Accessible Design (“1991 Standards”) and the
17 2010 ADA Standards for Accessible Design (“2010 Standards”).

18 24. At Defendant’s parking lot at the Property, there are more than 50 parking spaces.

19 25. There are no wheelchair accessible parking spaces at the parking lot at
20 Defendant’s Property.

21 26. Under the 2010 Standards Defendant’s Property must include at least three (3)
22 accessible parking spaces and at least one (1) of those must be a “van-accessible” parking space.
23 § 208.2 of the 2010 Standards and § 4.1.2 of the 1991 Standards.

1 27. Slope of accessible parking spaces must be no greater than 1:48 in any direction
2 and must adjoin the accessible route. §§ 502.3-502.4 of the 2010 Standards and § 4.3.6 of the
3 1991 Standards.

4 28. Accessible parking spaces must be identified with signage at least 60 inches
5 above the ground. § 502.6 of the 2010 Standards and § 4.6.4 of the 1991 Standards (Signage
6 must be high enough it “cannot be obscured by a vehicle parked in the space.”).

7 29. There is no signage for accessible parking at Defendant’s Property.

8 30. Van accessible parking spaces shall be 132 inches wide and served by an access
9 aisle of 60 inches, or 96 inches wide and served by an access aisle of 96 inches. § 502.2 of the
10 2010 Standards and §§ 4.1.2(5)(b) and 4.3.6 of the 1991 Standards.

11 31. A regular accessible space shall be at least 96 inches wide and served by an
12 access aisle at least 60 inches wide. § 502.3 of the 2010 Standards and §§ 4.1.2(5)(a) and 4.3.6
13 of the 1991 Standards.

14 32. Access aisles must be marked so as to discourage parking and adjoin the
15 accessible route. §§ 502.3 and 502.3.3 of the 2010 Standards.

16 33. The parking lot at Defendant’s Property does not have marked accessible parking
17 spaces and no access aisles are present at all.

18 34. Mr. Wood requires compliant van-accessible parking and compliant accessible
19 routes in order to safely patronize the tenants of Defendant’s property using his modified van and
20 power wheelchair.

21 Efforts to Resolve Informally

22 35. There is no requirement that any efforts be made to informally resolve ADA
23 accessibility issues at a place of public accommodation, Mr. Wood’s attorney provided voluntary

1 pre-litigation notice and an opportunity to settle this matter without a lawsuit by letter to Jinniu
2 Investment LLC's registered agent dated April 30, 2019 and mailed that same day.

3 36. As of the filing of this complaint, Mr. Wood's attorney received no response
4 contact or response from Jinniu Investment LLC.

5 37. As of the filing of this complaint no alterations have been made to address these
6 accessibility barriers.

7 38. Defendant's property is not safe and is not welcoming for people who use
8 wheelchairs because it does not comply with the ADA's accessibility laws and regulations.

9 39. The failure of Jinniu Investment LLC to make the property comply with the
10 ADA's accessibility laws and regulations works to exclude people with disabilities from equal
11 access to and enjoyment of the Property.

V. FIRST CAUSE OF ACTION
Title III of the Americans with Disabilities Act of 1990
42 U.S.C. § 12101 *et seq.*

15 40. Mr. Wood incorporates by reference the allegations in the paragraphs above.

16 41. Mr. Wood is limited in the major life activity of walking and is thus a qualified
17 individual with a disability within the meaning of Title III of the ADA.

18 42. Title III of the ADA states in relevant part: "No individual shall be discriminated
19 against on the basis of disability in the full and equal enjoyment of the goods, services, facilities,
20 privileges, advantages, or accommodations of any place of public accommodation by any person
21 who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. §
22 12182(a).

43. Defendant Jinniu Investment LLC owns or leases the property where the Great

1 Wall restaurant is located.

2 44. The Great Wall restaurant location is a restaurant and therefore a place of public
3 accommodation. 42 U.S.C. § 12181(7)(B).

4 45. Defendant has discriminated against Plaintiff on the basis of his disability.

5 46. Defendant's discriminatory conduct includes but is not limited to:

- 6 a. Discriminatory exclusion and/or denial of goods, services, facilities,
7 privileges, advantages, accommodations, and/or opportunities;
- 8 b. Provision of goods, services, facilities, privileges, advantages, and/or
9 accommodations that are not equal to those afforded non-disabled
10 individuals;
- 11 c. Failing to make reasonable modifications in policies, practices, and/or
12 procedures as necessary to afford the goods, services, facilities, privileges,
13 advantages, and/or accommodations to individuals with disabilities;
- 14 d. Failing to make alterations in such a manner that, to the maximum extent
15 feasible, the altered portions are readily accessible to and usable by
16 individuals with disabilities, including individuals who use wheelchairs;
- 17 e. Failing to remove barriers to individuals with disabilities where it would
18 be readily achievable to do so.

19 47. As such, Defendant discriminates and, in the absence of the injunction requested
20 herein, will continue in the future to discriminate against Plaintiff on the basis of disability in the
21 full and equal enjoyment of the goods, services, facilities, privileges, advantages,
22 accommodations and/or opportunities at Defendant's property in violation of Title III of the
23 Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. and/or its implementing regulations.

1 48. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
2 and Injunctive Relief has harmed Mr. Wood, and the harm continues.

3 49. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
4 and Injunctive Relief entitles Mr. Wood to declaratory and injunctive relief. 42 U.S.C. § 12188.

5 50. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
6 and Injunctive Relief entitles Mr. Wood to recover reasonable attorneys' fees and costs incurred
7 in bringing this action. 42 U.S.C. § 12205.

VI. SECOND CAUSE OF ACTION
Violation of the Washington Law Against Discrimination
(R.C.W. §§ 49.60.010 et seq.)

51. Mr. Wood incorporates by reference the allegations in the paragraphs above.

52. Mr. Wood is a qualified individual with a disability within the meaning of the
Washington Law Against Discrimination.

14 53. Under § 49.60.030(1) of the Revised Code of Washington provides in pertinent
15 part: "The right to be free from discrimination because of . . . the presence of any sensory,
16 mental, or physical disability . . . is recognized as and declared to be a civil right. This right shall
17 include, but not be limited to: . . . (b) The right to the full enjoyment of any of the
18 accommodations, advantages, facilities, or privileges of any place of public resort,
19 accommodation, assemblage, or amusement . . . "

20 54. Defendant has violated and continues to violate §§ 49.60.010 *et seq.* of the
21 Revised Code of Washington by violating multiple accessibility requirements under the ADA.

22 55. Defendant's actions constitute discrimination against persons with disabilities and
23 violate the Washington Law Against Discrimination, Revised Code of Washington § 49.60.010

1 et seq., in that persons with mobility disabilities have been and are still denied full and equal
2 enjoyment of the accommodations, advantages, facilities, privileges, and services that Defendant
3 provides to individuals who do not have disabilities.

4 56. As a direct and proximate result of Defendant's discriminatory conduct as alleged
5 in this Complaint for Declaratory and Injunctive Relief, Mr. Wood has suffered and continues to
6 suffer difficulty, hardship, isolation, and segregation due to Defendant's failure to remediate the
7 Property.

8 57. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
9 and Injunctive Relief has denied Mr. Wood the full and equal enjoyment of services that the
10 Washington Law Against Discrimination requires.

11 58. Mr. Wood has a clear legal right to access the tenants of Defendant's Property
12 under the Washington Law Against Discrimination.

13 59. Mr. Wood has the right for Defendant's property to comply with the ADA's
14 accessibility laws and regulations under the Washington Law Against Discrimination.

15 60. Defendant's property does not comply with ADA accessibility laws and
16 regulations.

17 61. Because Defendant's property does not comply with the ADA's accessibility laws
18 and regulations, declaratory and injunctive relief are appropriate remedies under the Washington
19 Law Against Discrimination. *See e.g. Kucera v. Dep't of Transp.*, 140 Wash. 2d 200, 209 (2000).

20 62. Pursuant to RCW § 49.60.030(2), Mr. Wood is entitled to declaratory and
21 injunctive relief and to recover from Defendant his reasonable attorneys' fees and costs incurred
22 in bringing this action.

23

VII. PRAYER FOR RELIEF

WHEREFORE, Mr. Wood respectfully requests that this Court:

1. Assume jurisdiction over this action;
 2. Find and declare Defendant Jinniu Investment LLC to be in violation of Title III Americans with Disabilities Act, 42 U.S.C. § 12181, et seq. and the Washington Law of Discrimination, Wash. Rev. Code §§ 49.60.010 et seq. because Defendant's Property did not comply with the ADA's accessibility laws and regulations;
 3. Issue a permanent injunction ordering Defendant to immediately implement the necessary improvements to bring the Defendant's property into compliance with the ADA's accessibility laws and regulations;
 4. Award Mr. Wood reasonable attorneys' fees and costs as authorized by 42 U.S.C. § 12188 and Wash. Rev. Code § 49.60.030(2);
 5. Award actual, compensatory, and/or statutory damages to Mr. Wood for violations of his civil rights as allowed under state and federal law;
 6. Award such additional or alternative relief as may be just, proper, and equitable.

DATED THIS 3rd day of June, 2019

By:

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